

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:

Orange County Sanitation District)	Complaint No. 99-58
10844 Ellis Avenue)	for
P.O. Box 8127)	Administrative Civil Liability
Fountain Valley, California)	
92708-8127)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Orange County Sanitation District (OCSD) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board) may impose administrative civil liability pursuant to California Water Code Section 13385.
2. A hearing concerning this complaint will be held before the Board within 60 days of the date of issuance of this complaint, unless OCSD waives its right to a hearing. Waiver procedures are specified in Paragraph 10 of this complaint. If the hearing on this matter is not waived, the hearing will be held during the Board's regular meeting on August 20, 1999. OCSD or its representative will have the opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of civil liability by the Board.
3. If the August 20, 1999 hearing on this matter is held, the Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. OCSD is alleged to have violated California Water Code Section 13376 by allowing or causing waste to be discharged to water of the state and of the United States without having filed a report of waste discharge and without having obtained waste discharge requirements from the Board for the discharge.
5. This complaint is based on the following facts:
 - A.) A reinforced concrete box culvert was to be constructed near the intersection of Pacific Coast Highway and Newport Boulevard, Newport Beach. Numerous underground utilities, including a 24" diameter pressurized sewage main ("force main") operated by OCSD, are located in the area of the construction.

- B.) In the course of relocating underground utilities that would interfere with the construction of the box culvert, on July 21, 1998, OCSD's force main was damaged by a drilling contractor, causing the release and spill of approximately 122,000 gallons of sewage.
 - C.) An estimated 20,000 gallons of sewage were recovered, and an estimated 102,000 gallons of sewage entered Newport Bay, to the east of the Newport Boulevard bridge over the channel leading to Balboa Coves.
 - D.) As result of the sewage spill, Orange County Health Care Agency issued a precautionary beach closure for all beaches within the western half of Newport Bay from July 21 through July 26, 1998.
6. The discharge occurred from sewage collection facilities owned and operated by OCSD. Under Section 13385(a), OCSD is strictly liable for unauthorized discharge of wastes from this collection system. Pursuant to Section 13385(c), the Board can administratively assess civil liability in an amount not to exceed the sum of the following:
- A.) Ten thousand dollars (\$10,000) for each day in which the violation occurs: and,
 - B.) Where there is a discharge, any portion which is not susceptible to clean up or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
7. The maximum Section 13385(c) liability for the violation cited is \$1,020,000.
8. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of these factors, the Executive Officer proposes civil liability be imposed on OCSD in the amount of \$50,000 for the violation cited above.
9. The Executive Officer proposes that up to \$40,000 of this proposed civil liability be suspended contingent on performance of a supplemental environmental project(s) acceptable to the Executive Officer. As a supplemental environmental project, OCSD proposes to connect to its sewage collection and treatment facilities the Back Bay drain, which is tributary to Newport Dunes Resort, in Upper Newport Bay. (Control of the input to the Bay from this drain (such as by sewer connection) was identified by Regional Board staff as a high priority for implementation of the coliform TMDL.) In the event that \$40,000 is not required to complete this connection, OCSD proposes to conduct additional studies that will support ongoing efforts

to develop a toxics TMDL for Newport Bay and that, with the sewer connection, will total a \$40,000 commitment.

10. OCSD may waive its right to a hearing in this matter. If OCSD waives its right to a hearing, sign the waiver, which is page 4 of this Complaint, and return it, together with a check payable to the State Water Resources Control Board in the amount of \$10,000 (the proposed civil liability not suspended). Send the check and signed waiver to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

11. If the supplemental environmental project(s) identified in paragraph 9, above, is not timely completed to the satisfaction of the Executive Officer, the \$40,000 suspended liability shall become immediately due and payable.

If you have any questions concerning this complaint, contact the undersigned at 909/782-3284, Mark Adelson at 909/782-3234, or Ted Cobb, the Board's staff counsel, at 916/657-0406.

Date: June 22, 1999

Gerard J. Thibeault
Executive Officer

California Regional Water Quality Control Board
Santa Ana Region

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Waiver of Hearing

Orange County Sanitation District (OCSD) agrees to waive its right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violation alleged in Complaint No. 99-58. OCSD has enclosed a check payable to the State Water Resources Control Board in the amount of \$10,000 in partial settlement of the Complaint. OCSD also commits to the timely completion of one or more supplemental environmental projects that are acceptable to the Regional Board's Executive Officer and that individually or collectively represent a commitment of \$40,000. Further, OCSD acknowledges that if the supplemental environmental project(s) is not timely completed to the satisfaction of the Executive Officer, the \$40,000 suspended liability shall become immediately due and payable. Finally, OCSD understands that it is giving up its right to be heard and to argue against the allegations made in the Complaint, and against the imposition of, and amount of, civil liability.

Date

for Orange County Sanitation District